

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00906R

Parcel No. 120/03347-014-000

Sherry Begalske,
Appellant,

v.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 22, 2015. Sherry Begalske was self-represented and requested her appeal proceed without hearing. Assistant County Attorney Christina Gonzalez represented the Polk County Board of Review.

Begalske is the owner of a residential property located 2101 Meadow Court, Unit 306, Des Moines. The subject property is an end-unit, two-story, townhome-style condominium, built in 2003. It has 1373 square feet of living area; a patio; an open porch; and an attached two-car garage.

The property's January 1, 2015, assessment was \$105,500, allocated as \$13,100 in land value and \$92,400 in dwelling value. Begalske protested to the Board of Review claiming the assessment is not equitable as compared with assessments of other like property under Iowa Code section 441.37(1)(a)(1)(a). The Board of Review denied the petition. She then appealed to PAAB and asserted the correct assessment is \$95,200.

Findings of Fact

In support of her claim of inequity, Begalske identified six units in her condominium development claiming they are the same size as hers but assessed for

\$92,400 to \$95,300 as compared to her property's \$105,500 assessment: She compared Units 201, 203, 804, 1003, 1004, and 1406. We note the record indicates only Unit 201 sold in 2014 at \$11,500, compared to its \$95,300 assessment; this shows an assessment/sales ratio of 0.85, which indicates an assessment 15% below its market value. We note that more than one comparable property and sale is required for an equity analysis. Begalske did not submit any evidence of the market value of the remaining equity comparables to establish an assessment/sales ratio.

The Board of Review submitted a list of all of the condominium units in the subject's development and their respective assessments. (Ex. B). It notes there are sixty units with similar floor plans and gross living area (GLA). Thirteen of the units have assessments of \$106,500, and forty-one have assessments of \$105,500. (Ex. A). It explains the slight difference in value between these assessments is attributable to the year the buildings were built and their corresponding depreciation schedules. It further notes the six units Begalske identified have an assessment of less than \$100,000 due to a 2013 Board of Review action on those properties. (Ex. A).

Because of Begalske's petition, the Board reviewed sales in the subject's development. There were sixteen sales from January 2013 to November 2015. (Ex. C). We note Unit 604 sold twice, in 2013 and 2014; which may indicate one or both of the sales was abnormal. The sales range in price from \$72,000 to \$114,000, with an average sale price of roughly \$103,500, and a median sale price of roughly \$108,000. (Ex. C). Based on these recent sales, the Board of Review and Assessor's Office determined that the six properties Begalske identified are under-assessed and the remaining units in the development are assessed at their fair market value. To correct this error, the Board of Review decided to raise the 2016 assessments of the six properties Begalske identified, rather than lower the remaining units in the development, which it believes would compound the error. (Ex. A).

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those

properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Begalske did not assert that the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties. Instead, she offered six properties she considered comparable to hers for an equity analysis. All of the properties are located in the same condominium complex and comparable to the subject property. However, only one of the six units sold in 2014. Although it indicates it is under-assessed compared to its market value, more than one comparable is required to support an equity claim.

Moreover, the Board of Review notes that the six units Begalske identified are assessed incorrectly due to a Board of Review action taken in 2013, which created the inconsistencies between them and the remaining fifty-four units in the development. It submitted sixteen sales from 2013 to 2015, which demonstrate other like units in the subject development are consistently selling for more than \$100,000. It notes that as a result of Begalske’s petition it is correcting the 2016 assessments of the six units to be consistent with the remaining units in the development.

Therefore, although Begalske provided six comparable units that were assessed for less than her unit, we note that the majority of the units in her development suggest her property is equitably assessed.

Order

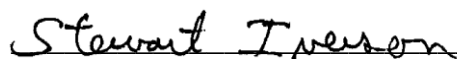
IT IS THEREFORE ORDERED that the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

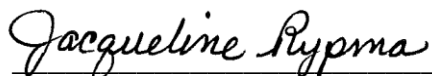
Dated this 28th day of January, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Sherry Beglaske

Christina Gonzalez